

1 [The R.M.C. 803 session came to order at 0834, 24 July 2008. All
2 parties present when the commission recessed were once again present]

3 DC [LCDR MIZER]: Your Honor, one brief matter. I think
4 Mr. Schneider is going to conduct some cross-examination this morning
5 that may need to be done in a closed session lasting just a couple
6 minutes, but just to make the Court aware of that.

7 MJ [CAPT ALLRED]: Okay. We don't have a--we are going to start
8 a new witness this morning, aren't we?

9 TC [LCDR STONE]: Yes, sir, we are.

10 MJ [CAPT ALLRED]: The next witness?

11 TC [LCDR STONE]: Before that cross-examination is conducted, we
12 would like to have the opportunity and notice with regards what it
13 is, to see if we can avoid doing that.

14 MJ [CAPT ALLRED]: Well, don't ask me. Ask them.

15 DC [LCDR MIZER]: It's that line that I showed you out in the
16 hall.

17 TC [LCDR STONE]: Okay.

18 DC [LCDR MIZER]: That document, that line.

19 TC [LCDR STONE]: I think--I know it's not the first, but we may
20 be able to avoid that and that's--I would like to----

21 CDC [MR. SCHNEIDER]: I may be able to help for a change.

22 MJ [CAPT ALLRED]: Do you want to talk----

23

1 CDC [MR. SCHNEIDER]: It won't be the first witness. It's more
2 likely to be the second or third and there is a chance that, if not
3 impeded, I may be able to get out the information largely in the
4 testimony without implicating any classified information. But if
5 not, we'll do it in a closed session.

6 TC [LCDR STONE]: And that's my understanding as well. We would
7 also like to put our objection on the record this morning, sir, of
8 Mr. Hamdan addressing the jury directly, as you had said that he
9 would be able to do. We think he needs--if he's going to direct--or say
10 anything to the jury it needs to be under oath, and it needs to be
11 not as an apology to gain--potentially gain favor with the jury prior
12 to testifying. And so we would object to him actually addressing the
13 jury and doing so in a manner that would be outside what would
14 otherwise be the rules.

15 MJ [CAPT ALLRED]: Okay. I will--Mr. Hamdan, I will tell the
16 jury on your behalf about your apology, okay?

17 **[Accused and attorneys confer.]**

18 CDC [MR. SCHNEIDER]: Your Honor, that will be fine with me and
19 I understand it's fine with Mr. Hamdan. He would like the jury to
20 know that he apologizes and that it wasn't the video that cause----

21 MJ [CAPT ALLRED]: And that what?

22 CDC [MR. SCHNEIDER]: That--he didn't leave because the video
23 was on.

1 MJ [CAPT ALLRED]: Okay. Good enough. Let's call the members
2 back in the courtroom then.

3 **[The R.M.C. 803 session was terminated and the military commission**
4 **was called to order at 0838, 24 July 2008.]**

5 MJ [CAPT ALLRED]: Court is called to order. All parties
6 present when the Court recessed are once again present.

7 Members, it does not look like I will call for a weekend
8 session this weekend. I don't think you would appreciate it and I
9 didn't fully appreciate the number of people that are involved in
10 supporting these trials. Security folks, guards, technicians, people
11 that we don't even see or understand are working sometimes early in
12 the morning and late in the evening. And so I'm reluctant to impose
13 those burdens on them. It's not as easy as a court-martial back home
14 where we would just go into the Court house on Saturday and continue
15 trying the case, so your weekend will be free.

16 At the same time, counsel have advised me that some of the
17 witnesses they plan to call will no longer be necessary for various
18 reasons, and that we are actually ahead of where they thought we
19 would be today, so we may have made up a day or two or part of the
20 day, I don't know, by virtue of those changes in their trial
21 strategy. So I think if we work all day every day during the week,
22 then we'll proceed at a good pace and perhaps reserve the option of a

1 weekend session for when we really need to stay and work on a
2 weekend.

3 I would also like to tell you, yesterday after you were
4 excused, Mr. Hamdan spoke to me. He asked me to call you back, in
5 order for him to apologize to you for interrupting yesterday's
6 session. I told him that I would offer that apology on his behalf
7 this morning. It had nothing to do with the video. It was a
8 misunderstanding between him and his defense counsel and it was
9 resolved, so he's back this morning.

10 Okay? Thank you very much. Commander, please call your
11 next witness.

12 CTC [MR. MURPHY]: Your Honor, the government calls FBI Special
13 Agent [REDACTED], who is outside in the hallway?

14 MJ [CAPT ALLRED]: Bailiff?

15 **[The witness entered the courtroom.]**

16 CTC [MR. MURPHY]: Special Agent [REDACTED], if you could approach
17 the witness stand, stand and face me and raise your hand.

18 **[END OF PAGE]**

19

20

21

22

1 [REDACTED], Civilian, was called as a witness for the
2 prosecution, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the civilian trial counsel:

5 Q [MR. MURPHY]: Would you state your full name and spell your
6 last name for the record?

7 A [MR. [REDACTED]]: [REDACTED].

8 Q [MR. MURPHY]: During February of 2003, who were you employed
9 by and what were your duties?

10 A [MR. [REDACTED]]: I was employed--and still am--as a special
11 agent with the Federal Bureau of Investigation.

12 Q [MR. MURPHY]: Describe to the commission, if you would, your
13 formal education and also your law enforcement training.

14 A [MR. [REDACTED]]: I have a Bachelor's degree in Criminal Justice
15 and I have completed FBI's basic 16 week new agent's course.

16 Q [MR. MURPHY]: Do you have any specialized law enforcement
17 training?

18 A [MR. [REDACTED]]: Yes, I have attended several in-services
19 through the Bureau through the last nine years to include a four week
20 counter-intelligence basic course, a two week human source
21 development course, as well as a couple of other one week courses,
22 one for espionage and, I believe, one for double agent operations as
23 well.

1 Q [MR. MURPHY]: Do you speak any languages other than English?

2 A [MR. ██████]: No, sir.

3 Q [MR. MURPHY]: Did the FBI give you an assignment to interview
4 Salim Hamdan also known as Saqr al-Jadawi?

5 A [MR. ██████]: Yes, they did.

6 Q [MR. MURPHY]: When did you get that assignment?

7 A [MR. ██████]: Approximately a few days before February 26,
8 2003.

9 Q [MR. MURPHY]: Did you, in fact, interview him in person with
10 others?

11 A [MR. ██████]: Yes, I did.

12 Q [MR. MURPHY]: I would ask you to look around the courtroom
13 today and see if you recognize that person, Salim Hamdan, and if so,
14 point to him and identify an article of clothing that he is wearing.

15 A [MR. ██████]: Mr. Hamdan **[pointing to the accused]** is sitting
16 in the middle of the defense table wearing the white hat and tan
17 jacket.

18 CTC [MR. MURPHY]: Your Honor, may the record reflect that the
19 witness properly identified the accused to his face?

20 MJ [CAPT ALLRED]: You may.

21 **[END OF PAGE]**

22

23

1 Q [MR. MURPHY]: What was the nature of your mission when you
2 interviewed Salim Hamdan?

3 A [MR. ██████]: I was directed to interview Mr. Hamdan and to
4 show him pictures of al Libi as well as ask him about the al Farouq
5 training camps.

6 Q [MR. MURPHY]: And specifically, what was the time period when
7 you interviewed the accused?

8 A [MR. ██████]: It was on February 26, 2003.

9 Q [MR. MURPHY]: Where did you interview him?

10 A [MR. ██████]: At Camp Delta, Guantanamo Bay.

11 Q [MR. MURPHY]: And how many times did you have an interview
12 session with him?

13 A [MR. ██████]: I know, I interviewed him once. It's possible
14 that I could have interviewed him more than once, but I know I
15 definitely interviewed him once. I haven't seen the documentation to
16 show that I interviewed him more than once, 'cause during that time
17 period I did interview several detainees.

18 Q [MR. MURPHY]: Could you describe in some detail the room
19 where the interview took place?

20 A [MR. ██████]: We interviewed Mr. Hamdan in the--the interview
21 trailers that they had set up. Basically it was a modular-type home
22 trailer, whatever you want to call it, that they had been subdivided
23 into different interview rooms or, you know, different rooms. I

1 would say that there was approximately eight--six or eight rooms,
2 like three on one side, or four on each side that we interviewed in.

3 Q [MR. MURPHY]: Was he restrained during the interviews?

4 A [MR. ██████████]: Yes, he was.

5 Q [MR. MURPHY]: Could you explain that for us?

6 A [MR. ██████████]: When Mr. Hamdan and the other detainees were
7 brought in, they were shackled hand and foot and in the case of
8 Mr. Hamdan, when he was brought in he remained in his restraints.
9 Once he was brought in, then his restraints secured to an eye bolt
10 that was in the floor and then we sat down in the chair.

11 Q [MR. MURPHY]: And what about his hands at that point?

12 A [MR. ██████████]: His hands were restrained as well. On
13 detainees that we had developed rapport with, sometimes we would--and
14 that we knew, we would have their hand restraints removed, but in
15 Mr. Hamdan's case, in this interview, this was the first time that I
16 had spoke with him and I hadn't developed a rapport with him,
17 therefore he was left restrained by his hands.

18 Q [MR. MURPHY]: Were there other people in the rooms with you
19 during the interview?

20 A [MR. ██████████]: After the guards brought Mr. Hamdan in, they
21 departed and I interviewed Mr. Hamdan along with an Arab to English
22 translator, and also a special agent from the Naval Criminal
23 Investigative Service.

1 Q [MR. MURPHY]: And the interview was conducted in Arabic?

2 A [MR. [REDACTED]]: Yes, sir.

3 Q [MR. MURPHY]: You did not speak Arabic. Did anyone else in
4 the room actually speak Arabic?

5 A [MR. [REDACTED]]: I do not believe the NCIS agent did but, of
6 course, we had the English to Arabic translator.

7 Q [MR. MURPHY]: Can you explain the translation process? How
8 the questions were posed, the information was sought, and then there
9 was a translation back to you. Let us know how that process worked.

10 A [MR. [REDACTED]]: Before we would begin the interview, before the
11 detainee would come in, we would advise the Arabic translator that I
12 would, you know, give him--I would pose my questions in English. His
13 job was to translate it directly, specifically, with no wavering to
14 the detainee in Arabic, and then whatever the detainee's response
15 was, he was to translate that back verbatim to me in English.

16 Q [MR. MURPHY]: Did Salim Hamdan indicate a willingness to talk
17 to you?

18 A [MR. [REDACTED]]: He spoke with us that day, yes, sir.

19 Q [MR. MURPHY]: How would you describe the tone of the
20 interview?

21 A [MR. [REDACTED]]: I would say business-like. There was no
22 hostility or anything. It was just very straightforward.

23

1 Q [MR. MURPHY]: During your interviews, did the accused
2 complain to you that he was ever mistreated or abused by anyone at
3 any time?

4 A [MR. [REDACTED]]: No, sir, he didn't.

5 Q [MR. MURPHY]: Were reports, known as FBI 302's, prepared that
6 summarized the results of your interviews?

7 A [MR. [REDACTED]]: Yes, they were.

8 Q [MR. MURPHY]: And have you reviewed this report for your
9 testimony today?

10 A [MR. [REDACTED]]: Yes, I have.

11 Q [MR. MURPHY]: What, if anything of substance, did he say to
12 you?

13 A [MR. [REDACTED]]: We advised Mr. Hamdan that we wanted to
14 interview him. Mr. Hamdan advised that he had been interviewed many
15 times in the past and that basically everything that he had to say
16 was in his file, which was a common response from detainees. At that
17 time, we advised Mr. Hamdan that we would, you know, we would like to
18 show him these photos. We showed him a photo of Mr. al Libi. I
19 can't remember if I showed him other photos, but I know that I showed
20 him photos of Mr. al Libi specifically.

21 He stated that he did know Mr. al Libi. Then we--I asked him
22 about if he had ever attended an al Farouq training camp. And he

1 stated that no, he had not attended the camp but that he had driven
2 Usama bin Laden there several times.

3 Q [MR. MURPHY]: What happened next?

4 A [MR. ██████]: We tried to get Mr. Hamdan to, you know, go
5 into more details about the times that he had, you know, been at the
6 camps and had, you know--are you sure you don't know al Libi--just
7 tried to expand on the questions that we had already posed, and he
8 did not have anything that he wished to tell us further at that time.

9 Q [MR. MURPHY]: He chose to stop talking, basically?

10 A [MR. ██████]: Well, you know, he was, you know, there was
11 small talk going back and forth but he didn't have anything else of
12 substance that he wished to provide.

13 Q [MR. MURPHY]: After he made these brief comments to you, what
14 did you do?

15 A [MR. ██████]: After we determined that Mr. Hamdan, you know,
16 had nothing else that he wanted to say to us that day, we concluded
17 the interview, notified the guards that we were through with the
18 interview and they came and escorted Mr. Hamdan away.

19 Q [MR. MURPHY]: Did you force him in any way to continue the
20 interview?

21 A [MR. ██████]: No, sir.

22 CTC [MR. MURPHY]: If I may have a moment, Your Honor **[the judge**
23 **nodded in response]**.

1 Your Honor, we tender the witness.

2 MJ [CAPT ALLRED]: Very good.

3 **CROSS-EXAMINATION**

4 **Questions by civilian defense counsel:**

5 Q [MR. SCHNEIDER]: Agent [REDACTED], how are you?

6 A [MR. [REDACTED]]: Good morning, sir.

7 Q [MR. SCHNEIDER]: Harry Schneider, I represent Mr. Hamdan.

8 A [MR. [REDACTED]]: Yes, sir.

9 Q [MR. SCHNEIDER]: With regard to your report, he voluntarily
10 told you that he did drive Usama bin Laden?

11 A [MR. [REDACTED]]: Yes, sir.

12 Q [MR. SCHNEIDER]: And he did tell you he drove bin Laden to
13 the training camps?

14 A [MR. [REDACTED]]: Yes, sir. To that training camp, yes, sir.

15 Q [MR. SCHNEIDER]: Did you ever learn that day talking to
16 Mr. Hamdan that he had anything to do with the planning or execution
17 of terrorist acts? The COLE bombing, the embassy bombing, 9/11?

18 A [MR. [REDACTED]]: No, sir.

19 Q [MR. SCHNEIDER]: Let me ask you a little background. Are you
20 in the international terrorism squad of the FBI?

21 A [MR. [REDACTED]]: I work in a small satellite office and I handle
22 counter-terrorism and counter-intelligence matters for that office.

1 Q [MR. SCHNEIDER]: Do other bureaus or departments of the
2 United States government also have similar specialties in their
3 investigative units or intelligence gathering units with regard to
4 counter terrorism? Besides the FBI.

5 A [MR. [REDACTED]]: Could you ask that question again? I'm not
6 sure where you are going.

7 Q [MR. SCHNEIDER]: Yeah, are there other departments or
8 agencies or bureaus of the federal government that have
9 counter-terrorism units?

10 A [MR. [REDACTED]]: I'm not sure how the other government--how the
11 other departments are specifically organized. If you can ask it a
12 little bit clearer, maybe I can give you a better answer.

13 Q [MR. SCHNEIDER]: I can try.

14 A [MR. [REDACTED]]: Yes, sir.

15 Q [MR. SCHNEIDER]: Isn't it true that there are other agencies
16 in the government also involved in the investigation of terrorism?

17 A [MR. [REDACTED]]: I would believe that other departments have
18 counter-terrorism interests. I'm not sure----

19 [END OF PAGE]

1 Q [MR. SCHNEIDER]: Can you just give me a couple examples of
2 what types of other agencies or departments the government would
3 have--who you believe would have such departments? Just the names.
4 I don't want any more information than that.

5 A [MR. [REDACTED]]: I'm sure the Department of Homeland Security
6 has some, you know, something in there, that's--that's what comes to
7 mind to me.

8 Q [MR. SCHNEIDER]: Any other agency?

9 A [MR. [REDACTED]]: Not--I have--if you could ask it more
10 specifically, maybe I could give you a better answer. I'm not sure
11 where he's going, sir.

12 MJ [CAPT ALLRED]: If you don't know the answer, just say you
13 don't know.

14 WIT [MR. [REDACTED]]: That would be the best way to answer it, yes,
15 sir.

16 Q [MR. SCHNEIDER]: Okay. Did you ever share any information as
17 an FBI agent regarding al Qaeda with another agency?

18 A [MR. [REDACTED]]: Yes, sir, our--the FBI and our national
19 security program, we gather intelligence through our interviews,
20 through our sources, whether it be counter-terrorism or counter
21 intelligence and then that information or that intelligence is
22 provided to our other partners in the intelligence community to
23 include the United States military.

1 Q [MR. SCHNEIDER]: Okay. Now we are getting somewhere. And do
2 those agencies sometimes share information with the FBI?

3 A [MR. [REDACTED]]: Not near enough, sir.

4 MJ [CAPT ALLRED]: You are allowed the lead witness on
5 cross-examination, I suppose.

6 CDC [MR. SCHNEIDER]: I don't want to beat around the bush, but
7 I don't think that the name of any other agency is classified. How
8 about the CIA?

9 CTC [MR. MURPHY]: Your Honor, I would object. I'm concerned
10 that we may be going into protected areas.

11 MJ [CAPT ALLRED]: I'll let him ask this question.

12 Q [MR. SCHNEIDER]: How about the CIA?

13 A [MR. [REDACTED]]: I have read intelligence reports that were
14 derived from the Central Intelligence Agency, yes, sir.

15 Q [MR. SCHNEIDER]: Yes or no question. Did they ever give you
16 anything on what they knew about Mr. Hamdan?

17 A [MR. [REDACTED]]: I read what was as of February 26, 2003. I
18 read his file. I went through his file. I can't say I read every
19 word of it, and I cannot recall--there was reports from the military,
20 reports from us, I can't say whether there was actually something
21 that came from CIA.

22 Q [MR. SCHNEIDER]: All right.

23 A [MR. [REDACTED]]: I can't say that.

1 Q [MR. SCHNEIDER]: Fair enough. But before you met him on
2 February 26, 2003, did you go back and review all the other
3 investigative reports that were quote, in his file?

4 A [MR. [REDACTED]]: Yes, sir, that's what I'm saying. I read
5 through his file. I can't say that I read every page, every word,
6 but yes, sir, I did review that file.

7 Q [MR. SCHNEIDER]: Is it fair to say it was a fairly thick
8 file?

9 A [MR. [REDACTED]]: Yes, sir, from what I remember.

10 Q [MR. SCHNEIDER]: And so when Mr. Hamdan said to you, I don't
11 have anything further to add to the file, because I have already
12 provided a complete account of activities and relationships, you knew
13 that there was a pretty big--pretty thick file that preceded your
14 arrival, correct?

15 A [MR. [REDACTED]]: Yes, sir, I did read the file.

16 Q [MR. SCHNEIDER]: Okay. You can't tell us anything about what
17 information was obtained, if any, from Mr. Hamdan between the end of
18 November and the end of December 2001--between Takteh-Pol, the end of
19 November and his arrival at Bagram Air Base, the end of December,
20 correct?

21 A [MR. [REDACTED]]: I can't recall specifically what was in the
22 file, no, sir.

23

1 Q [MR. SCHNEIDER]: And can you tell us anything about what
2 happened at Bagram?

3 A [MR. [REDACTED]]: During that time period?

4 Q [MR. SCHNEIDER]: Right.

5 A [MR. [REDACTED]]: No, sir. I'm not--you know, like I said, I'm
6 not sure exactly what was in the file, but nothing sticks in my mind.

7 Q [MR. SCHNEIDER]: I misspoke. Was Takteh-Pol end of November,
8 arrival of Bagram end of December. So I'm asking about end of
9 December, January, February 2002. You can't--you don't have any
10 information about that, do you?

11 A [MR. [REDACTED]]: Like I said, the file I read included
12 interviews with--which I'm sure were through that time period.

13 Q [MR. SCHNEIDER]: Okay.

14 A [MR. [REDACTED]]: Or they were prior to February 26, 2003. I
15 can't say specifically what was in those things----

16 Q [MR. SCHNEIDER]: All right.

17 A [MR. [REDACTED]]: ----but yes, I did review it, but nothing
18 sticks in my mind.

19 Q [MR. SCHNEIDER]: At this time I think I can be more--I can
20 simplify.

21 A [MR. [REDACTED]]: Okay.

22

23

1 Q [MR. SCHNEIDER]: As you sit here today, do you recall
2 anything specific you can share about what information Mr. Hamdan
3 provided to the United States government while he was at Bagram?
4 Anything specific from your recollection?

5 A [MR. [REDACTED]]: No, sir.

6 Q [MR. SCHNEIDER]: Fair enough. I'm sorry I didn't ask the
7 question that way the first time.

8 A [MR. [REDACTED]]: Yes, sir.

9 Q [MR. SCHNEIDER]: And I'm just going see if I can refresh your
10 recollection briefly. So if, in fact, he had provided information in
11 January of 2002 about Usama bin Laden, the way in which he traveled,
12 the number and type of people who accompanied him, how many convoys
13 organized, types of cars utilized, order of movement, radios used and
14 weapons that accompanied him, that's not something that you recall
15 hearing about?

16 A [MR. [REDACTED]]: It's possible that it was in the file, but I
17 can't recall anything specifically. I'm sorry.

18 Q [MR. SCHNEIDER]: Fair enough. I'm not going to try to
19 refresh--see if you have a recollection by going through all the
20 dates of interviews, but let me just see what else I have here. You
21 didn't give him his rights, right? Miranda warnings or----

22 A [MR. [REDACTED]]: No, sir.

23

1 Q [MR. SCHNEIDER]: Okay. And the reason for that was that he
2 was at Guantanamo, correct?

3 A [MR. ██████]: That was not our standard operating procedure.
4 That is the reason I did not give those to him.

5 Q [MR. SCHNEIDER]: Just to be clear, it wasn't your operating
6 procedure at Guantanamo, correct?

7 A [MR. ██████]: That's true.

8 Q [MR. SCHNEIDER]: But if you were interviewing suspects--if
9 someone is a suspect in the United States, you still would give them
10 their rights, didn't you?

11 A [MR. ██████]: If they are a suspect and they are detained,
12 and the subject of that investigation, Miranda is usually given, yes,
13 sir.

14 Q [MR. SCHNEIDER]: Okay. So to be very--I'll be very clear.
15 If someone is a suspect in an ongoing criminal investigation, and
16 detained, standard operating procedure outside Guantanamo, give him
17 his rights.

18 A [MR. ██████]: In the United States, it is.

19 Q [MR. SCHNEIDER]: Even after 9/11? Even after the events of
20 September 11th, 2001?

21 A [MR. ██████]: In the United States, yes, sir.

22

23

1 Q [MR. SCHNEIDER]: Even terrorist suspects, if interviewed in
2 the United States?

3 A [MR. ██████]: I cannot--I can say I have never interviewed a
4 terrorism suspect in the United States, so I'm not, you know, I
5 cannot say I've done that.

6 Q [MR. SCHNEIDER]: How about outside the United States?

7 A [MR. ██████]: I have not interviewed outside the United
8 States.

9 Q [MR. SCHNEIDER]: Then I'll ask somebody else.

10 A [MR. ██████]: Okay.

11 Q [MR. SCHNEIDER]: Was his attitude--although he said he had
12 nothing more to add, was his attitude polite?

13 A [MR. ██████]: Yes, sir.

14 Q [MR. SCHNEIDER]: There's nothing in your report to suggest
15 that he was other than respectful.

16 A [MR. ██████]: As I said, it was very business-like.

17 Q [MR. SCHNEIDER]: You didn't go through with him whether he
18 could identify dozens of other people besides Mr. al Libi, right?

19 A [MR. ██████]: I'm not--as I told--said earlier, I'm not sure
20 how--if I showed him more than one photo. I know that during the
21 different interviews that I did during my time period here, I would
22 show detainees a series of photos and in this specific instance I

1 can't remember if I showed him more than one photo, but I know I did
2 show him the photo of al Libi.

3 Q [MR. SCHNEIDER]: In your job, Special Agent [REDACTED], have you
4 ever investigated a conspiracy?

5 A [MR. [REDACTED]]: A conspiracy--I have investigated criminal
6 cases involving more than one person, you know, that are defined as a
7 conspiracy but I'm not sure where you are going with that.

8 Q [MR. SCHNEIDER]: Well, I'm not sure yet, but let me--in those
9 instances where you have been involved in the criminal investigation
10 of people who are alleged to have been in a criminal conspiracy,
11 generally speaking--I know there's always exceptions, but generally
12 speaking, is it considered helpful to be able to speak to someone who
13 admits he or she is in a conspiracy?

14 A [MR. [REDACTED]]: Yes, sir.

15 Q [MR. SCHNEIDER]: Can you think of anyone who would have
16 better personal knowledge than someone who admits he is in a
17 conspiracy?

18 A [MR. [REDACTED]]: That would be helpful, yes, sir.

19 Q [MR. SCHNEIDER]: Have you done that in this case involving
20 Mr. Hamdan?

21 A [MR. [REDACTED]]: I'm not sure what that question is.
22
23

1 Q [MR. SCHNEIDER]: Have you been able to interview anyone
2 anywhere at any time who admits that he was in a conspiracy to
3 execute, plan terrorist acts, including the embassy bombings, the
4 COLE bombing and the planes of 9/11?

5 A [MR. [REDACTED]]: I haven't interviewed anybody that was, you
6 know, a direct participant in that.

7 Q [MR. SCHNEIDER]: Thank you for your time.

8 A [MR. [REDACTED]]: Thank you, sir.

9 MJ [CAPT ALLRED]: Thank you, Mr. Schneider.

10 CTC [MR. MURPHY]: Your Honor, just a little follow up.

11 **REDIRECT EXAMINATION**

12 **Questions by the civilian trial counsel:**

13 Q [MR. MURPHY]: Agent [REDACTED], that day when you interviewed
14 Salim Hamdan, were you hoping that the interview session would last
15 longer?

16 A [MR. [REDACTED]]: Yes, sir, of course I would.

17 Q [MR. MURPHY]: Were you hoping that you would get more
18 information?

19 A [MR. [REDACTED]]: Yes, sir.

20 Q [MR. MURPHY]: Was it Mr. Hamdan's decision to end the
21 interview?

22 A [MR. [REDACTED]]: Yes, sir, Mr. Hamdan--there was nothing else
23 that he wished to provide at that time.

1 Q [MR. MURPHY]: Had he not done that, would there have been
2 other areas important to you that he would have covered?

3 A [MR. [REDACTED]]: Yes, sir.

4 Q [MR. MURPHY]: And why would that have been important you?

5 A [MR. [REDACTED]]: Because it would have provided more information
6 to disseminate. It could've given us more avenues to investigate.
7 You know, we really could have branched out from, you know, the
8 information that he could have provided. There could have been other
9 avenues that we could have pursued.

10 Q [MR. MURPHY]: On the issue of rights advisement, does that in
11 any way relate to your mission at the joint task force? In other
12 words, was your mission down here unique in that you did not give
13 rights warnings?

14 A [MR. [REDACTED]]: Yes, sir.

15 Q [MR. MURPHY]: And why was it unique?

16 A [MR. [REDACTED]]: My part in the big puzzle was just to gather
17 the intelligence that could be derived from that series of questions
18 that we had to ask him, and then we would, you know, forward that
19 information to those that needed to know, whether it be on the
20 battlefield or back in the States or wherever. Any of the
21 information we gather here, you know, we send out.

1 Q [MR. MURPHY]: And was it your understanding that it was the
2 U.S. policy not to provide rights advisement in this setting?

3 A [MR. [REDACTED]]: It was the directive that I was working under,
4 yes, sir.

5 CTC [MR. MURPHY]: Thank you.

6 Your Honor, I have nothing further for the witness. He is
7 not a witness on the defense list and without objection from the
8 military judge or--or with the permission of the military judge, this
9 agent would like to depart the island as soon as possible.

10 CDC [MR. SCHNEIDER]: Two questions on re-cross and then I will
11 gladly----

12 MJ [CAPT ALLRED]: Two questions and then you may go apparently.

13 **RECROSS-EXAMINATION**

14 **Questions by the civilian defense counsel:**

15 Q [MR. SCHNEIDER]: Two questions. Before you got on the plane,
16 or on your way down here, or when you arrived in February 2003, did
17 anyone tell you that Mr. Hamdan is a criminal--is a suspect in an
18 ongoing criminal investigation and that you were going to be
19 interviewing him in order to develop a criminal case or charge him
20 criminally? Did anyone tell you that?

21 A [MR. [REDACTED]]: No, sir.

1 Q [MR. SCHNEIDER]: Last question. You said you had hoped that
2 the interview with Mr. Hamdan had gone on a bit longer. As you sit
3 here today in court under oath, do you want this cross-examination to
4 go on any longer?

5 A [MR. ██████]: I'm here for the duration, sir.

6 CDC [MR. SCHNEIDER]: You are free to go.

7 MJ [CAPT ALLRED]: Okay. Special Agent ██████, thank you for
8 your testimony. You are free to leave for your other duties.

9 CDC [MR. SCHNEIDER]: Your Honor, if we could ask the agent to
10 send in the next witness, who is Special Agent ██████.

11 [The witness, Mr. ██████, was excused and withdrew from the
12 courtroom.]

13 [The next witness, Mr. ██████, entered the courtroom.]

14 CTC [MR. MURPHY]: Special Agent ██████, if you could
15 approach the witness stand, please. And stand there, face me, and
16 raise your right hand.

17 [END OF PAGE]

1 [REDACTED], Civilian, was called as a witness for the
2 prosecution, was sworn, and testified as follows:

3 DIRECT EXAMINATION

4 Questions by the civilian trial counsel:

5 Q [MR. MURPHY]: Please state your full name and spell your last
6 name for the record.

7 A [MR. [REDACTED]]: My name is [REDACTED], spelled
8 [REDACTED].

9 Q [MR. MURPHY]: Who are you employed by and what are your
10 duties?

11 A [MR. [REDACTED]]: I'm employed by the Federal Bureau of
12 Investigation and I am assigned as a Special Agent.

13 Q [MR. MURPHY]: Please tell us a little bit about your law
14 enforcement background, including any specialized law enforcement
15 training that you have received.

16 A [MR. [REDACTED]]: In addition to the basic agent training in
17 Quantico, I was assigned to New York's joint terrorism task force
18 from the years 1997--or 1998 through 2005. I received various
19 training in counter-terrorism investigations, international terrorism
20 and Islamic extremism courses.

21 Q [MR. MURPHY]: Did the FBI give you an assignment to interview
22 Salim Hamdan?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. MURPHY]: And when did you get that assignment?

2 A [MR. [REDACTED]]: It would have been mid-January 2002 and we
3 interviewed him from January 31 through February 2nd or 3rd.

4 Q [MR. MURPHY]: I'd ask you to look around courtroom today and
5 see if you recognize that person you interviewed, Salim Hamdan, and
6 if you can, point to him and identify an article of clothing he is
7 wearing.

8 A [MR. [REDACTED]]: Yes. Mr. Hamdan **[pointing to the accused]**
9 that has white headdress on.

10 CTC [MR. MURPHY]: Your Honor, may the record reflect the
11 witness has properly identified the accused?

12 MJ [CAPT ALLRED]: It may.

13 Q [MR. MURPHY]: You stated that your interviews occurred within
14 January and February; is that right?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. MURPHY]: Where did you interview him?

17 A [MR. [REDACTED]]: We interviewed him at Kandahar Airfield in
18 Kandahar, Afghanistan.

19 Q [MR. MURPHY]: Approximately how many times did you interview
20 Salim Hamdan?

21 A [MR. [REDACTED]]: Approximately three times.

22

23

1 Q [MR. MURPHY]: Could you describe the rooms of that location
2 where the interviews took place?

3 A [MR. [REDACTED]]: We had approximately six very small tents
4 outside the walled compound. They are outdoors. Inside the tent,
5 there was just a small light bulb, a wooden table, three or three
6 metal chairs and he would sit across from us and I'd sit with myself,
7 a CID special agent and also an interpreter.

8 Q [MR. MURPHY]: Were there other people in this interview area
9 with you?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: And who were they?

12 A [MR. [REDACTED]]: We had at least one--for every interview,
13 one CID special agent and also a military translator from the 202
14 Military Intelligence Battalion, I believe.

15 Q [MR. MURPHY]: In what language was the interview conducted?

16 A [MR. [REDACTED]]: Arabic.

17 Q [MR. MURPHY]: Were you able to understand these interviews
18 yourself?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. MURPHY]: Do you speak Arabic?

21 A [MR. [REDACTED]]: I do not.

22

23

1 Q [MR. MURPHY]: How were you able to understand the interview
2 process? Tell us about that.

3 A [MR. ██████████]: I would present my questions to the military
4 translator and he'd present them to Mr. Hamdan, and when he would
5 respond it, it would go back through the military translator and he
6 would explain it to me, and I would sometimes ask follow up questions
7 to make sure I had an understanding of the question and the answer.

8 Q [MR. MURPHY]: All right. After your interviews, did you
9 prepare an FBI Form 302 to summarize these interviews?

10 A [MR. ██████████]: Yes.

11 Q [MR. MURPHY]: During your interviews with Salim Hamdan, was
12 he restrained in any manner?

13 A [MR. ██████████]: Not during the interviews. When he was
14 brought to us he was typically restrained, but we asked that he be
15 taken--any hand restraints or leg restraints be taken off for the
16 interview.

17 Q [MR. MURPHY]: Can you describe the restraints that you saw
18 when he came in for the interviews?

19 A [MR. ██████████]: I don't recall if he was restrained--I
20 believe he was restrained in the front and at times at the back, but
21 those were taken off, sometimes outside of the tent before he came
22 in.

23

1 Q [MR. MURPHY]: Completely unrestrained when he was with you?

2 A [MR. [REDACTED]]: When he was with us.

3 Q [MR. MURPHY]: What were the seating arrangements in this
4 interview area?

5 A [MR. [REDACTED]]: Mr. Hamdan would sit across from us. There
6 was a small table and we would sit on another side.

7 Q [MR. MURPHY]: How close were you during--were you and the
8 other participants to Mr. Hamdan during the--these interviews?

9 A [MR. [REDACTED]]: We could shake hands. We were approximately
10 three or four feet apart.

11 Q [MR. MURPHY]: How would you describe the tone of the
12 interviews?

13 A [MR. [REDACTED]]: Cordial, professional. It was open
14 discussion.

15 Q [MR. MURPHY]: Did you or anyone else in the interviews ever
16 yell at Salim Hamdan or act in any manner that you would consider to
17 be threatening?

18 A [MR. [REDACTED]]: No.

19 Q [MR. MURPHY]: Did you provide him opportunities to eat and
20 drink?

21 A [MR. [REDACTED]]: We did.

22

23

1 Q [MR. MURPHY]: And did you permit him at times to pray?

2 A [MR. [REDACTED]]: We had taken breaks for prayer and also we
3 brought in tea at times as well.

4 Q [MR. MURPHY]: Did you provide him with any rights advisement,
5 such as Article 31 warnings under the UCMJ or Miranda-type warnings?

6 A [MR. [REDACTED]]: We did not.

7 Q [MR. MURPHY]: And why was that?

8 A [MR. [REDACTED]]: It was our instructions at the time, we
9 received from our headquarters and also immediate supervisors to not
10 provide Miranda warnings at the camp.

11 Q [MR. MURPHY]: Did you provide--did you ask the accused a
12 series of questions which he provided responses?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. MURPHY]: Did you talk with him about when he first
15 traveled to Afghanistan?

16 A [MR. [REDACTED]]: I did.

17 Q [MR. MURPHY]: And what did he say?

18 A [MR. [REDACTED]]: He first traveled to Afghanistan in 1999.

19 Q [MR. MURPHY]: Okay. And what did he say about the travels?

20 A [MR. [REDACTED]]: He met an individual named Ali al-Yafi in
21 San'a, Yemen and according to Mr. Hamdan, he expressed his views or
22 his interests in going to Afghanistan and just--he was curious about
23 the Taliban, jihad, life in general in Afghanistan, and he had noted

1 to--or to Ali al-Yafi that he couldn't afford to go, and Ali al-Yafi
2 responded that he would provide funding not only for him, but for his
3 wife and daughter to travel to Afghanistan to attend training.

4 Q [MR. MURPHY]: During your interviews, did Salim Hamdan
5 discuss his views of jihad?

6 A [MR. ██████████]: He did, and----

7 Q [MR. MURPHY]: What did he say?

8 A [MR. ██████████]: As I mentioned, he told me that he was--had
9 a curiosity about life in Afghanistan and that he was intrigued by
10 jihad and also--as the overall struggle, but also about traveling
11 there and to be mentally and physically prepared for jihad in the
12 future. And he also--he also knew that it would probably entail some
13 type of military training, but he wasn't sure how he'd apply it after
14 he completed it.

15 Q [MR. MURPHY]: During this time, during his travels to
16 Afghanistan, did he tell you that he acquired an alias name?

17 A [MR. ██████████]: He did. He acquired the alias of Abu Saqr.

18 Q [MR. MURPHY]: What, if anything, did the accused tell you
19 about traveling to certain guest houses while he was in Afghanistan?

20 A [MR. ██████████]: When he arrived in Afghanistan, he arrived
21 into Karachi, Pakistan with his wife and daughter, and he had
22 traveled to Quetta, Pakistan, where he had met up with Ali al-Yafi.
23 Ali al-Yafi offered to serve as his guide into Afghanistan and when

1 either departing Quetta or crossing in through Spin Boldak, Ali
2 al-Yafi noted that he should assume an alias and he assumed the alias
3 of Abu Saqr, and that's when they continued on into a Kandahar guest
4 house from there, but he told him he should assume that name. He
5 didn't ask him any questions. He just said Ali al-Yafi told me that
6 I needed one, so I assumed the name of Abu Saqr.

7 Q [MR. MURPHY]: When he was staying at the guest houses, did he
8 tell you that people at the guest houses shared something in common?

9 A [MR. [REDACTED]]: They did. It was--in addition to being an
10 Arab guest house, he noted that everybody that had arrived at the
11 guest house to that point had been trusted or vetted and that they
12 could also or intended to obtain training at al Farouq or other camps
13 at no cost.

14 Q [MR. MURPHY]: And did he talk to you about costs and funding
15 travels to Afghanistan?

16 A [MR. [REDACTED]]: He did. He talked about how they could
17 obtain training at al Farouq for no cost and that Ali al-Yafi had
18 provided him and his family money, \$1500 to travel from Yemen all the
19 way to the guest house in Kandahar.

20 Q [MR. MURPHY]: Did he report to you that he was there to
21 receive some type of military-type training?

22 A [MR. [REDACTED]]: He did. He intended to obtain military
23 training at al Farouq.

1 Q [MR. MURPHY]: What is your understanding as an FBI
2 investigator in this case about the nature and purpose of al Farouq?

3 A [MR. [REDACTED]]: Going back from the mid to late-1990 to 2001
4 al Farouq, along with a series of other camps such as Derunta,
5 Khalden, Jihad Wahl, Tarnak Farms were all known as camps where
6 extremists or even terrorist subjects, we have known have obtained
7 military training at these camps and al Farouq was known as an al
8 Qaeda camp.

9 Q [MR. MURPHY]: Where was the al Farouq training camp located
10 in relation to the guest house that you just mentioned?

11 A [MR. [REDACTED]]: Mr. Hamdan explained to us that it was 70
12 kilometers or approximately a two hour drive outside the city of
13 Kandahar.

14 Q [MR. MURPHY]: How did the accused actually get to the camp?

15 A [MR. [REDACTED]]: At the house, he had met an individual named
16 Abu Rahman, and also a Suhaib al Yumani, and it was Suhaib that had
17 driven him, along with 12 others, I believe, to the al Farouq camp.

18 Q [MR. MURPHY]: Where was the accused's family located when
19 Hamdan told you that he was attending the al Farouq camp?

20 A [MR. [REDACTED]]: When Mr. Hamdan had traveled to al Farouq,
21 his family was permitted to stay back at the Kandahar guest house.

22

23

1 Q [MR. MURPHY]: What happened first when the accused arrived at
2 the al Farouq training camp?

3 A [MR. ██████████]: They had spent two or three days on the
4 exterior of the camp. When they arrived, their belongings were
5 searched and they had waited a few days before they were permitted to
6 enter the camp to train.

7 Q [MR. MURPHY]: What happened next?

8 A [MR. ██████████]: Once--once he was--did spent a few days
9 outside the camp, they were allowed to come into the camp and he
10 described his daily routine to us.

11 Q [MR. MURPHY]: And did Salim Hamdan describe the routine of
12 the al Farouq training camp?

13 A [MR. ██████████]: He did.

14 Q [MR. MURPHY]: And what did he say?

15 A [MR. ██████████]: They woke before dawn many mornings and
16 studied the Koran. There were prayer sessions, physical training
17 where they would do marches outside the camp or into the mountains,
18 and also had some other physical fitness training as well.

19 Q [MR. MURPHY]: What, if any, weapons did Salim Hamdan admit he
20 was trained on at al Farouq?

21 A [MR. ██████████]: He explained to us that he received training
22 on AK-47s. He didn't receive much ammunition to fire, but a 30 round
23 magazine on an AK-47. There was training with a Yutaka RPD machine

1 gun, also a PK 7.62-millimeter machine gun, and also received
2 training on Makarov pistols. And he mentioned that they didn't--
3 there wasn't a range per se, but it was--they would go out a
4 hillside, set up some targets. He said he'd set up five targets and
5 he fired and only hit two.

6 Q [MR. MURPHY]: And these are all details that Salim Hamdan
7 provided to you, is that right?

8 A [MR. ██████████]: Correct.

9 Q [MR. MURPHY]: Did he also talk about any training on rockets?

10 A [MR. ██████████]: He explained to us that he had received
11 training on rockets but never fired one.

12 Q [MR. MURPHY]: Did Salim Hamdan talk to you about the type of
13 training that others were receiving at the al Farouq camp?

14 A [MR. ██████████]: He mentioned that other groups at the al
15 Farouq camp had received some training on mines, missiles and
16 grenades.

17 Q [MR. MURPHY]: Did the accused tell you about explosions that
18 he heard at the camp and what he understood these explosions were
19 about?

20 A [MR. ██████████]: He explained they were--he had heard some
21 explosions off in a distance outside of the camp, and he had asked
22 the camp instructor what--what--what type of training was going on
23 there, and the instructor only told him that that was al Qaeda. That

1 intrigued me because I thought, well, how does he know that? Or how
2 did he understand that to be? So we asked him a few more questions
3 and he told us that he didn't really press on any further with the
4 camp cadre. When he told him it was al Qaeda, he just left that
5 alone.

6 Q [MR. MURPHY]: What did the accused say about joining al Qaeda
7 when he was at the training camp?

8 A [MR. [REDACTED]]: He didn't have an interest in it. He told
9 us he wasn't interested in joining al Qaeda. He just wanted to
10 return back to the guest house and work there and be with his family.

11 Q [MR. MURPHY]: Did the accused talk to you about the first
12 time he saw Usama bin Laden?

13 A [MR. [REDACTED]]: He did.

14 Q [MR. MURPHY]: What did he say?

15 A [MR. [REDACTED]]: He explained that Usama bin Laden had
16 visited the camp once while he was at al Farouq, and came as many as
17 three or four occasions to the camp.

18 Q [MR. MURPHY]: Please tell us what the accused told you about
19 Usama bin Laden when he came--when Usama bin Laden came to the al
20 Farouq camp.

21 A [MR. [REDACTED]]: He told us that generally, training activity
22 decreased but the security or the general activity in the camp
23 increased with security measures, people showing up in advance.

1 Usama bin Laden came to the camp and would speak up to a half an hour
2 each time, and it was generally to offer encouragement to the
3 trainees, but he never spoke of attacks against the United States or
4 conducting specific operations.

5 Q [MR. MURPHY]: How many times did the accused say he saw Usama
6 bin Laden at al Farouq?

7 A [MR. [REDACTED]]: Three to four times.

8 Q [MR. MURPHY]: Did the accused tell you about seeing Dr. Ayman
9 Zawahiri and Abu Hafs al Masri at al Farouq camp.

10 A [MR. [REDACTED]]: He did.

11 Q [MR. MURPHY]: What did he say?

12 A [MR. [REDACTED]]: They also came to the camp, much like Usama
13 bin Laden, to offer words of encouragement to the trainees and they
14 had mentioned that they should prepare for jihad physically and
15 spiritually, citing Koranic verses to that effect, and also that
16 training was hard, but it was for a purpose.

17 Q [MR. MURPHY]: All right. And did these two individuals,
18 Zawahiri and Abu Hafs say something specific to the students of the
19 camp.

20 A [MR. [REDACTED]]: They did, and again, that's what they
21 explained to the students at the camp, was just that they offered
22 words of encouragement. They didn't speak to--specifically of
23 operations or attacks against the United States, but just to note

1 that they should be spiritually and physically ready to pursue jihad,
2 if needed.

3 Q [MR. MURPHY]: What did Hamdan tell you about his interests of
4 supporting al Qaeda by other means?

5 A [MR. [REDACTED]]: He mentioned that he had no interest in
6 fights after completing his time at al Farouq and we knew from
7 investigative experience that many of the graduates of these camps
8 would be sent up to fight against the Northern Alliance. He said he
9 had no interest in that and I asked him, well, how did the camp cadre
10 accept that answer. He said, well, I'm Yemeni and they know us to be
11 hard-headed. But he also had a wife and child, so it made sense, I
12 believe to myself, and told the camp cadre that he'd rather go back
13 to the guest house and work in a capacity there.

14 Q [MR. MURPHY]: Did Hamdan--did Salim Hamdan accept a
15 particular job after his training at al Farouq that he told you
16 about?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. MURPHY]: What did this job entail?

19 A [MR. [REDACTED]]: He'd gone back to the guest house in
20 Kandahar and Abdul Rahman and Suhaib had offered him to be the driver
21 for the guest house in Kandahar.

22

23

1 Q [MR. MURPHY]: Was there a house that Salim Hamdan noted for
2 you that was near that guest house where he worked?

3 A [MR. [REDACTED]]: There were two houses he mentioned, and one
4 was a house that was frequented by Usama bin Laden, I think it was
5 about two kilometers north of Kandahar, the guest house where he was
6 staying, and there was a second house that was outside the city of
7 Kandahar but closer to the airport.

8 Q [MR. MURPHY]: All right. And did he indicate that he became
9 a driver?

10 A [MR. [REDACTED]]: He did.

11 Q [MR. MURPHY]: What did he tell you about becoming a driver?

12 A [MR. [REDACTED]]: He had, after becoming a driver, he would
13 drive a passenger van and also a Toyota Hilux flatbed-type truck for
14 the guest house and he earned approximately \$100 a month taking
15 people to Farouq and supplies to Farouq and also obtaining supplies
16 for the guest house.

17 Q [MR. MURPHY]: Did he mention a particular person who was
18 instrumental in him becoming a driver?

19 A [MR. [REDACTED]]: It was Suhaib al Yemani that first
20 approached him to become a driver for Usama bin Laden.

21 [END OF PAGE]

1 Q [MR. MURPHY]: Did--during your interviews, did Salim Hamdan
2 tell you that he knew this person was--that this person was
3 associated with a particular organization?

4 A [MR. ██████████]: He did.

5 Q [MR. MURPHY]: What did he say?

6 A [MR. ██████████]: He told us that Usama bin Laden had come
7 quite a bit to the house north of Kandahar and that Suhaib seemed to
8 interact with Usama bin Laden often. He wasn't sure that Suhaib was
9 an al Qaeda member, but he thought so; give his frequent interaction
10 with Usama bin Laden.

11 Q [MR. MURPHY]: Did the accused comment to you about other
12 people he saw at Usama bin Laden's house that you just described?

13 A [MR. ██████████]: He did.

14 Q [MR. MURPHY]: And what did he say?

15 A [MR. ██████████]: He'd also seen Saif al Adel at this house
16 along with Abu Ahmed al Masri.

17 Q [MR. MURPHY]: At this time, did Salim Hamdan report to you
18 that he was doing something frequently for Usama bin Laden?

19 A [MR. ██████████]: He noted that he became--the full-time
20 driver, at least drove Usama bin Laden more frequently, based on
21 Suhaib's request.

22

23

1 Q [MR. MURPHY]: All right. About two months after Hamdan's
2 training, did he travel somewhere?

3 A [MR. [REDACTED]]: He did.

4 Q [MR. MURPHY]: What did he tell you about his travels?

5 A [MR. [REDACTED]]: Mr. Hamdan, his wife, and his daughter had
6 gone back to Sana'a, Yemen to attend the wedding of his
7 brother-in-law.

8 Q [MR. MURPHY]: What did Salim Hamdan then do after his travels
9 to Yemen?

10 A [MR. [REDACTED]]: After his travels to Yemen, he had gone to
11 Saudi Arabia to attend a minor pilgrimage, the Umrah in Saudi Arabia.

12 Q [MR. MURPHY]: And did someone fund this travel?

13 A [MR. [REDACTED]]: Prior--prior to leaving for Saudi Arabia, he
14 had met Ali al-Yafi again in Yemen, and Ali al-Yafi had given him
15 \$2,000 to--for his travels through Saudi Arabia and for travel back
16 to Afghanistan.

17 Q [MR. MURPHY]: Did Salim Hamdan make a comment to you about
18 why he received a fairly large sum of money from Ali al-Yafi?

19 A [MR. [REDACTED]]: And that was my question. Why does Ali
20 al-Yafi keep giving you this money? What does he expect in return
21 and his response was, as a fellow Muslim, he didn't ask any
22 questions. He just gave me the \$2,000 and I took it and traveled.

23

1 Q [MR. MURPHY]: Did this comment seem unusual to you?

2 A [MR. [REDACTED]]: Well, we wanted to get out--I wanted to get
3 out why Ali al-Yafi kept giving him money. It was my sense there was
4 more to it than just, I'm a fellow Muslim. I didn't know if he was
5 instructed to receive money from al-Yafi, or if he was intending to
6 take that money back to Afghanistan to give to somebody else in the
7 safe house.

8 Q [MR. MURPHY]: In mid September 2002, did Salim Hamdan tell
9 you about information he received from Usama--Usama Bin Laden's
10 guards?

11 A [MR. [REDACTED]]: You said mid September 2001?

12 Q [MR. MURPHY]: '2--2001. I apologize. Right, 2001.

13 A [MR. [REDACTED]]: He had received instructions from Usama Bin
14 Laden's guards that they were to move that day and he was to drive
15 Usama Bin Laden somewhere, but he wasn't immediately instructed as to
16 destination.

17 Q [MR. MURPHY]: What did the accused----

18 A [MR. [REDACTED]]: I----

19 Q [MR. MURPHY]: I'm sorry.

20 A [MR. [REDACTED]]: Out of security reasons.

21 [END OF PAGE]

22

23

1 Q [MR. MURPHY]: What did the accused do once he received this
2 information?

3 A [MR. [REDACTED]]: He was later instructed that he was going to
4 drive Usama Bin Laden, along with other members, up to Kabul,
5 Afghanistan, from Kandahar.

6 Q [MR. MURPHY]: And he specifically learned at the time he was
7 going to drive UBL to Kabul?

8 A [MR. [REDACTED]]: Correct.

9 Q [MR. MURPHY]: Did he, in fact, do that?

10 A [MR. [REDACTED]]: He did.

11 Q [MR. MURPHY]: Or admit to doing that?

12 A [MR. [REDACTED]]: He did.

13 Q [MR. MURPHY]: Did Salim Hamdan describe the convoy that was
14 assembled to transport Usama Bin Laden in mid September 2001?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. MURPHY]: Please tell us about that.

17 A [MR. [REDACTED]]: He had noted that he was the driver for
18 Usama Bin Laden in a--up to a nine-car convoy, and the convoy was--
19 included up to 35 people, and was divided into three groups; there
20 was the first three cars which were more of an advanced security
21 group, and they were followed behind in the next series of three
22 cars, which would be the main body of the group, followed by the last
23 three cars.

1 And the car that Mr. Hamdan drove, it was himself, Usama
2 Bin Laden, Usama Bin Laden's two sons, Sa'ed and also Uthman, and Abu
3 Gaith.

4 Q [MR. MURPHY]: Did the accused describe in detail the weaponry
5 the guards possessed in the convoy?

6 A [MR. ██████████]: They possessed machine guns, and I believe
7 also rocket-propelled grenades. Mr. Hamdan also carried a pistol.

8 Q [MR. MURPHY]: He admitted he carried a firearm, as well?

9 A [MR. ██████████]: Yes.

10 Q [MR. MURPHY]: Did he talk to you about communication
11 equipment in the convoy?

12 A [MR. ██████████]: He did.

13 Q [MR. MURPHY]: Did he specifically identify the type of
14 communication equipment utilized?

15 A [MR. ██████████]: He mentioned radios that were unfamiliar to
16 me. He described them as small, black ICM or I-CON radios. And they
17 didn't use encryption, but for security means they switched
18 frequencies often.

19 Q [MR. MURPHY]: Did Salim Hamdan tell you what he would do if
20 the convoy came under attack?

21 A [MR. ██████████]: His--Mr. Hamdan's instructions were to
22 simply keep on driving and to allow the three cars in the front and

1 the three cars in the back to address whatever attack came. They
2 were trained to do that. He was just simply to continue driving.

3 Q [MR. MURPHY]: Did Salim Hamdan talk to you about who was with
4 Usama Bin Laden in this convoy?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. MURPHY]: What did he say?

7 A [MR. [REDACTED]]: As I mentioned, he was in the car with Usama
8 Bin Laden, his two sons, Sa'ed, Uthman, and also Abu Gaith.

9 Q [MR. MURPHY]: You mentioned the--Salim Hamdan reported they
10 were traveling to Kabul. How long did it take the convoy to travel
11 to Kabul?

12 A [MR. [REDACTED]]: Mr. Hamdan mentioned it was 15 to 16 hours.

13 Q [MR. MURPHY]: Did the accused hear Usama Bin Laden talk about
14 the results of the attack of 9/11 while he was driving to Kabul?

15 A [MR. [REDACTED]]: Yes, he did.

16 Q [MR. MURPHY]: What did he say?

17 CDC [MR. SCHNEIDER]: Objection, double hearsay, just for the
18 record.

19 CTC [MR. MURPHY]: All right. This is--this is a statement of a
20 co-conspirator. It would not be hearsay.

21 MJ [CAPT ALLRED]: Would you re-ask the question.

22

23

1 Q [MR. MURPHY]: Did Salim Hamdan hear Usama Bin Laden talk
2 about the results of the attacks of 9/11, while he was driving him to
3 Kabul?

4 MJ [CAPT ALLRED]: Okay. Just a moment. What exception is the
5 exception for----

6 CTC [MR. MURPHY]: Your Honor, we would argue this is a
7 statement of a co-conspirator and that it's not hearsay. Usama Bin
8 Laden is a named conspirator in these charges.

9 MJ [CAPT ALLRED]: What was the date of the statement?

10 CTC [MR. MURPHY]: This was in mid September 2001.

11 MJ [CAPT ALLRED]: Okay. I will overrule the objection on the
12 basis of Rule of Evidence 801d(2)(e) statement, statement of
13 co-conspirator.

14 Q [MR. MURPHY]: And if I could repeat the question just so
15 we're clear. Did Salim Hamdan hear Usama Bin Laden talk about the
16 results of the attacks of 9/11 while Salim Hamdan was driving him to
17 Kabul?

18 A [MR. [REDACTED]]: Yes, he did.

19 Q [MR. MURPHY]: All right. What did he report?

20 A [MR. [REDACTED]]: Usama Bin Laden was--expressed his opinion
21 to the others in the car that he was surprised that the attacks
22 resulted in so many casualties. He was surprised that that many
23 people were killed.

1 Q [MR. MURPHY]: Did Salim Hamdan also tell you that he
2 recognized two of the photos of the 9/11 hijackers?

3 A [MR. [REDACTED]]: Yes, he did.

4 Q [MR. MURPHY]: How did he see these photos?

5 A [MR. [REDACTED]]: He had seen photos of the 19 hijackers in
6 the newspaper and had recalled seeing two of them--in, I believe the
7 guest house in Kabul.

8 Q [MR. MURPHY]: Did Salim Hamdan talk to you about Usama Bin
9 Laden's health during this convoy trip?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. MURPHY]: And what did he say?

12 A [MR. [REDACTED]]: We were curious, because we had heard
13 reports of his kidney ailments, so we had asked Mr. Hamdan what he
14 had seen. He mentioned that Usama Bin Laden didn't appear sick,
15 that--though he did sometimes complain about minor ailments, he was
16 seen by the doctor and that was it, the doctor that was--that
17 attended to him occasionally.

18 Q [MR. MURPHY]: Did the accused talk to you about concerns that
19 he had in the timeframe of November 2001?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. MURPHY]: What did he tell you?

22 A [MR. [REDACTED]]: His wife was several months pregnant, and he
23 retained concern for her health, given that there were air strikes

1 against Taliban and al Qaeda targets in Afghanistan, so he was
2 concerned with some of these air strikes that could pose a danger to
3 himself and also to his wife and family.

4 Q [MR. MURPHY]: He specifically mentioned one of his concerns
5 was air strikes; is that right?

6 A [MR. [REDACTED]]: Correct.

7 Q [MR. MURPHY]: And was it around a particular region that he
8 was concerned about these air strikes?

9 A [MR. [REDACTED]]: It was. It was Kandahar.

10 Q [MR. MURPHY]: After the accused dropped off his wife, did he
11 tell you what region he headed toward?

12 A [MR. [REDACTED]]: Yes. After he had dropped his wife and
13 daughter off at the border of Pakistan, he had returned back to
14 Kandahar, to Kandahar.

15 Q [MR. MURPHY]: Regarding his capture in November 2001, did the
16 accused talk to you about the car he was driving when he was
17 traveling toward Kandahar?

18 A [MR. [REDACTED]]: Yes--I'm sorry, the car back to Kandahar?

19 Q [MR. MURPHY]: Correct.

20 A [MR. [REDACTED]]: Okay.

21 [END OF PAGE]

1 Q [MR. MURPHY]: Did you learn about something in the car that
2 interested you as an investigator?

3 A [MR. [REDACTED]]: After he had departed Kandahar again to go
4 back towards Pakistan, yes, we were--we had questions about the car
5 that he was in.

6 Q [MR. MURPHY]: What, if anything, did Hamdan tell you about
7 weapons inside the car he was driving?

8 A [MR. [REDACTED]]: He told us that there were two AK-47s in the
9 back of the car.

10 Q [MR. MURPHY]: What, if anything, did he say about any other
11 weapon or weapon systems inside the car at the point of his capture?

12 A [MR. [REDACTED]]: He didn't.

13 Q [MR. MURPHY]: Made no mention of that?

14 A [MR. [REDACTED]]: No.

15 Q [MR. MURPHY]: What, if anything, did Salim Hamdan tell you
16 about the possibility that someone--that something other than the
17 AK-47s was seized inside the car he was driving at the point of his
18 capture?

19 A [MR. [REDACTED]]: He never mentioned it, so I didn't follow up
20 on it because it didn't strike me as unusual that there would be
21 AK-47s in the car.

22

23

1 Q [MR. MURPHY]: Did Salim Hamdan give you the name of a
2 possible owner of the car when he was captured and any reason why he
3 wouldn't know something was inside the car?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. MURPHY]: What did he say?

6 A [MR. [REDACTED]]: He mentioned the car belonged to an Abu
7 Yassir, and that the car belonged to him, so he didn't have an idea
8 what else or what items may have been in that car.

9 Q [MR. MURPHY]: Did you talk to Salim Hamdan about the details
10 of an individual by the name of Saif al Adel and Saif al Adel's
11 attempt to de--defense of Kandahar at the time Hamdan was captured in
12 that region?

13 A [MR. [REDACTED]]: His name never came up.

14 Q [MR. MURPHY]: He never gave you any details of Kandahar and
15 Saif al Adel?

16 A [MR. [REDACTED]]: Other than seeing him in the guest houses,
17 no.

18 Q [MR. MURPHY]: Right. Never talked about cells and al Qaeda
19 cells that he was aware of in Kandahar?

20 A [MR. [REDACTED]]: No.

21 CTC [MR. MURPHY]: If I may have a moment, Your Honor.

22 Your Honor, we tender the witness.

23 MJ [CAPT ALLRED]: Thank you.

1 CROSS EXAMINATION

2 Questions by the civilian defense counsel:

3 Q [MR. SCHNEIDER]: Good morning. I'm Harry Schneider. I

4 represent Mr. Hamdan.

5 [Pages 2392-2398 was a closed session and can be found in the secret

6 annex of the record of trial.]

7 [END OF PAGE]